Chapter 10. Public consultation and participation in Belgium:

Directly engaging citizens beyond the ballot box?

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In this chapter we look into the growth of diverse types of public inquiries and public consultation arrangements in policy-making. These arrangements bring to the table individual members of the public who otherwise have no direct policy – advisory – role, given the predominance of neo-corporatist style advisory bodies in Belgium (Van Damme and Brans, 2013). In some of these new public consultation and participation forms, citizens are not at the end of the delivery process, but are actively engaged in framing policy problems, and selecting and evaluating policy solutions. Nonetheless the rationales behind these consultation and participation processes may differ widely as to perspectives on democracy (Mayer et al., 2005). Some inquiries and consultations are conceived from an instrumental perspective from which it is believed that engaging citizens in policy analysis has something tangible to contribute to policy, by for instance enriching knowledge of specific policy problems, or by fostering policy support necessary for implementing solutions. From a more substantive view on democracy, citizen participation is rooted in participatory and deliberative democracy, and expected to contribute to the legitimacy of the decision making process (Michels and De Graaf, 2010).

This chapter analyzes the variety of public consultation and participation arrangements in Belgium at different levels of government in order to clarify the public's role in policy making and analysis beyond the ballot box. To this end, we use a framework of analysis in three dimensions: Who participates? How do they participate? Why do they participate? In this analysis, we focus on public consultation and participation forms that are 'arranged' and managed by public authorities, but we also include recent experiments such as the G1000 citizens-led initiative that proposes a bottom-up approach of public participation.

10.1 Policy making and public consultation

The increasing complexity of the policy environment has been critical for the policy making process. On the one hand, so-called 'wicked problems' combining scientific uncertainty with societal dispute challenge traditional ways of policy making (Jacob and Schiffino, 2011). Governments are increasingly dependent upon external information, knowledge, expertise, but also upon external support and commitment in order to successfully deliver policies (Barker and Peters, 1993). Governments feel the need to interact with more actors, and to do so more intensively, as many societal stakeholders often have the power to make or break policy. On the other hand, there is a shift in political attitudes and strategies of citizens and stakeholder groups. Today, citizens mobilize differently, in a more *ad hoc* and short-lived fashion, and at least some groups guard their stakes very actively. Scholars speak of a turn towards more informal and unconventional ways of political interaction (Dekker and Hooghe, 2003). Behind this change in political strategy and behavior of societal stakeholders, there is a change in their political attitude as more citizens are prepared to resort to strategies of boycott and protest (Van

den Brink, 2003). Actions, which many citizens a few decades ago would have labeled as illegitimate, now appear to be acceptable to many. One of the implications of these developments is that the traditional organizations of civil society (at least in a more corporatist democratic system) do not enjoy anymore their status as privileged channel and access point to government.

In sum, the policy arena is becoming ever more crowded with old and new actors, from well-established lobby groups over new single-issue groups to *ad hoc* citizen groups, voicing their opinion and defending their stakes. These groups not only have different ways of interacting with each other and the government, but also often have widely diverging values, stakes and perspectives. In such an environment, it has been observed that policy making becomes increasingly difficult (Agranoff and McGuire, 1999; Kjaer, 2004)[1] and policy can and is being criticized by actors with different stakes and perspectives. Since being democratically elected does not – anymore – constitute a sufficient basis for policy makers to make legitimate policy choices, "winning the hearts and minds of the people" on policy itself, becomes almost a daily quest for policy makers (Fung, 2008).

The international development towards more and more diverse mechanisms of public consultation and participation in the policy making process (Papadopoulos and Warin, 2007; Van Damme and Brans, 2008; Hendriks, 2010) can be seen in the light of the trends towards professional and interactive policy making, and the quest for policy legitimacy. In consensus democracies such as Belgium and the Netherlands this means that traditional mechanisms such as permanent advisory bodies with representatives of large stakeholder groups are being joined with more "recent" and "innovative" mechanisms such as opinion polls, citizen panels, participatory budget and deliberative polling. These mechanisms are often "borrowed" from other democratic systems and cultures (Hendriks, 2010).

These newly introduced mechanisms aim to contribute to more innovative, more efficient and better supported policy. More actors are being involved, from both within and beyond the governmental system. Not only academic experts and big interests are being consulted, but also individual citizens, specific target groups, etc. Such mechanisms of public consultation and participation are supposed to substantially contribute to both democracy and policy. However, depending on the perspective, the specific targeted goals of such initiatives can be quite different. For example, from a democratic theory perspective typically questions of input and throughput legitimacy of policy making are highlighted (Scharpf, 1999; Papadopoulos and Warin, 2007). Input legitimacy deals with questions of increasing public access to the policy-making process ('inclusiveness'), whereas throughput legitimacy focuses on the quality of deliberation preceding the policy decision. The governance literature has more of a managerial and instrumental focus and typically posits questions regarding the efficiency and effectiveness of public consultation (focusing on "output" legitimacy). To what extent can public consultation

[1] We will not go into detail here, as it is discussed in other chapters of this volume but New Public Management trends, with its tendency to break up governmental units has also compounded this evolution.

and participation contribute to better policy? To what extent can consultation deliver innovative perspectives and ideas?

In this chapter we start by defining public consultation and by illustrating the (multiple) possible goals of public consultation and participation. Next we develop a typology of public consultation mechanisms and link them to specific democratic regimes as specific consultation mechanisms are typical for a certain democratic system and culture. In the following sections we illustrate the variety of consultation and participation arrangements in Belgium at different levels of government in order to offer a broad picture of how citizens are directly engaged beyond the ballot box.

10.2 Defining public consultation

In this chapter we refer to public consultation as government-initiated arrangements of interaction on policy with societal parties such as citizens and non-governmental organizations. These can be aggregative systems such as referenda and pollings, integrative systems such as open planning processes and consensus conferences, as well as complex arrangements combining aggregation and integration/deliberation (Hendriks, 2010; Van Damme and Brans, 2012). The object of the public consultation is a policy of some kind, such as (intended) regulation, legislation, policy plans, to name but a few examples. The subjects of public consultation are societal parties such as citizens, businesses and non-governmental organizations. Public consultation can take place at any stage of the policy making process: agenda setting, policy preparation, decision making, implementation, monitoring and evaluation.

We use public consultation as a broad, umbrella concept. However, this concept can also be used to refer to a specific 'type' of interaction between government and the public. The OECD (2001) differentiates between information, consultation and participation in terms of the nature and direction of the relationship between government and citizens.

First, information is seen as a one-way relationship in which government produces and delivers information for use by citizens. It covers both "passive" access to information upon demand by citizens and "active" measures to disseminate information to citizens. Second, public consultation has been defined as a two-way relationship in which citizens provide feedback to government. It is based on a prior definition by government on the issue on which citizens' views are being sought and requires the provision of information. Third, active participation is a relation based on partnership with government, in which citizens actively engage in defining the process and content of policy-making. The OECD stipulates, however, that even though active participation acknowledges equal standing for citizens in setting the agenda, proposing policy options and shaping the policy dialogue, the responsibility for the final decision rests with government (OECD, 2001). Therefore, the OECD definitions clearly fit an indirect democracy perspective.

In this chapter we will focus on public consultation and participation. The difference between these concepts in the OECD definition appears to depend mainly on the intensity of the interaction. Although there are clearly differences in the intensity of interaction of specific

initiatives (compare, for example, the intensity of an opinion poll with that of an open planning process), the line between consultation and participation is a rather blurred one. Nevertheless, it remains a useful demarcation in describing mechanisms of interaction between government and the public.

10.3 Consultation, participation and political regimes

Previous research has mapped different arrangements of public consultation and linked them to specific democratic regimes (Van Damme and Brans, 2008) based on a model by Frank Hendriks (2006). Specific consultation arrangements are indeed typical or dominant for a certain democratic system and culture (see figure 10.1). For example, in an indirect Westminster style democracy, green papers have commonly been used as a way of gathering written input from organisations (and these days also more often from individual citizens). Government officials have a pivotal role as they collect the reactions to these consultations, use the information gathered and balance the interests of those involved as they see fit. There is no interaction between the societal stakeholders themselves.

A very different system can be found in traditional consensus democracies such as Belgium and the Netherlands where often (semi)permanent advisory bodies have been set up where societal stakeholders repeatedly interact with each other on policy issues, and sometimes with policy makers. These advisory bodies are an institutionalisation of a dominant consensual policy making culture in which core societal representatives have to be consulted on policy. In many policy fields such as education and welfare these organisations play a central role in policy implementation and their support as well as knowledge is very important in developing potentially successful policies.

Whereas the upper quadrants of the model have indirect democracy at their core, the lower quadrants of the model are based on direct democracy. The central question to differentiate between the upper and the lower quadrants is, “who decides?” on policy. In both the voters’ and participatory democracies citizens make the final decisions. Affiliated mechanisms of public consultation are opinion polls and referenda (where the numbers of people in favour of or against a certain policy are a focal point) for the voters’ democracy and citizens’ panels (where the quality of citizen deliberation is central) for the participatory democracy.

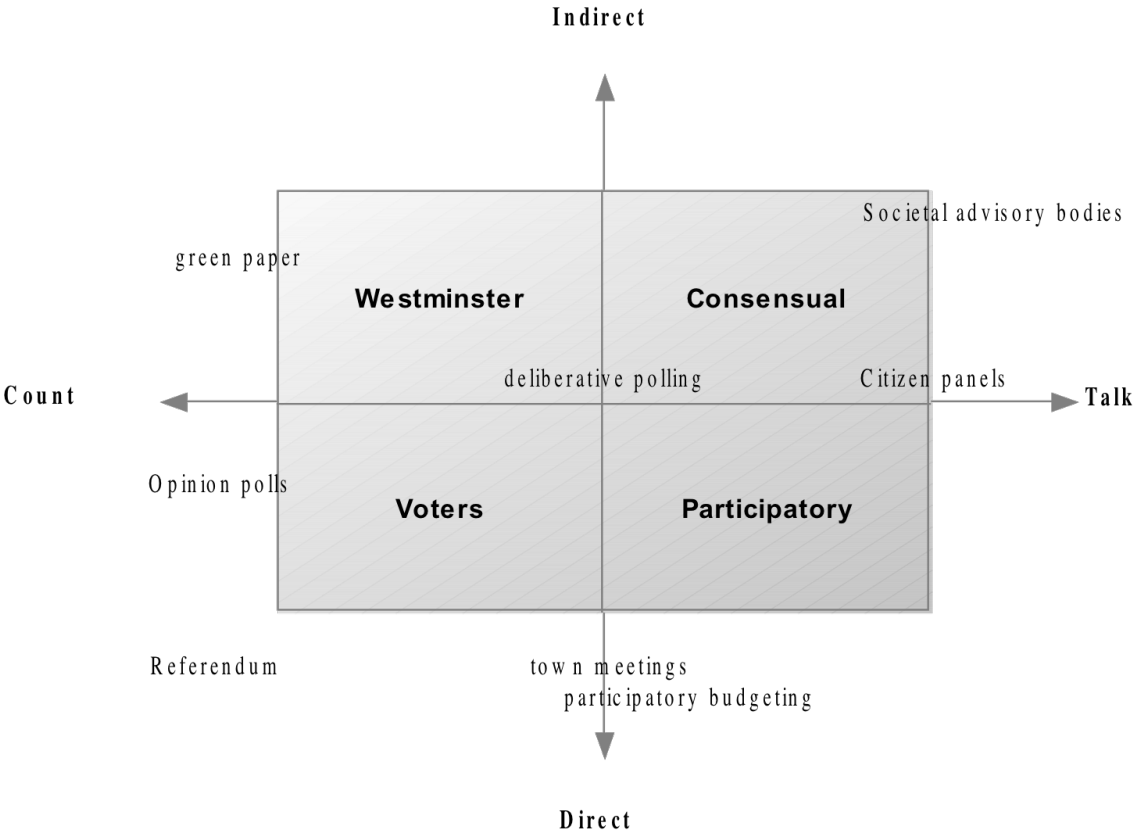

Figure 10.1: Arrangements of public consultation (Van Damme and Brans, 2008)[2]

In both Westminster style democracies and consensual democracies (such as the Netherlands and Belgium) there is an increase in the use and diversity of arrangements used for public consultation (Van Damme and Brans, 2008). Also, arrangements that are typically related to direct democratic systems (voters' and participatory democracy) are often being introduced. Accordingly, citizens become somehow more prominent actors in the policy making process. However, as these mechanisms are introduced in indirect democratic systems, they are often adapted to fit this environment (compare, for example, the binding referendum with the non-binding plebiscite).

As Schudson has observed (1999), even when new institutional arrangements are being introduced, more traditional institutional arrangements (such as in this case (semi)permanent societal advisory bodies in consensual political systems) are often maintained, although these do feel pressure from different democratic perspectives. In response, such more traditional institutional arrangements are often adapted in order to keep their relevance and legitimacy in a changing environment. For example, councils broaden their membership to include lay citizens or experts or they pay more attention to the quality of deliberation (Van Damme, Brans and Fobé, 2011).

[2] The different public consultation mechanisms have been situated indicatively in the model, depending on their democratic 'roots'. Clearly, the actual specific use of the mechanism will decide its position in the model.

Involving societal stakeholders in policy making offers the possibility of increasing the input, process and output legitimacy of policy. If stakeholders or citizens are involved, have a chance to influence policy, and their contributions are to a certain extent taken into account, their support for the resulting policy decisions will increase and the implementation of the policy will be more effective. Actors will be better informed, gain more insight in the problem but also in the policy making process, have a chance of influencing policy. In such circumstances, they will tend less to resort to protest activities, which will also make for less delays and more swift policy implementation. But this is in theory; we now need to offer an account of what happens in practice.

10.4 Public participation: A framework for analysis

Lots of possibilities exist to invite non-elected citizens to interact in the decision making process. Some are very limited and only propose to the public to be informed and offer some comments. But other forms of public participation are more intensive and propose to the citizens to be more fully involved in the decision making process. One of the major difficulties of this chapter is to deal with a large variety of mechanisms and experiences. Lots of typologies were constructed in political science to distinguish different modes of consultation and participation of the public (Arnstein, 1969; Rowe and Frewer, 2005; Smith, 2005). We will use the one proposed by Archon Fung (2006).[3] Fung explains that every form of participation can be classified according to three dimensions. Each dimension is related to specific institutional possibilities and normative goals.

First: *Who participates?* This dimension deals with the degree of inclusiveness of the mechanism. Does the public that is invited to participate differ from usual authorized set of decision makers? At one end of the continuum, public authorities can invite professional stakeholders and experts. This is a rather 'closed' environment. At the other end, so-called "lay" citizens can be invited. This is a more 'open' environment. In order to do this, public authorities can use several communication means to invite citizens. Firstly, a general call for volunteers via the media or using the internet can be chosen. This is the most common way to bring together citizens but also regularly criticized because there is always a specific segment of the population that participates most. Indeed, in situations of self-selection, the citizens who are already politically active and unrepresentative of the whole population (for instance, older and more educated) take part in the participatory event (Verba et al., 1995). That is the reason why some organizers try to thwart this phenomenon by means of selective recruitment of the less represented subgroup or by using random selection in order to create a group that is representative of the broader population (Fung, 2003).

Inclusion is central in both a more instrumental as well as in a more democracy-oriented approach. As we have already mentioned, interaction with different actors at the beginning of the policy cycle can improve the acceptance of public policies (Morrell, 1999). Consultation can also help decision makers to govern more efficiently by paying attention to citizens' variety of expertise. Citizens possess indeed essential local knowledge that comes from close exposure

[3] This typology is more analytical than the OECD's (2001).

to the context in which problems occur (Fung, 2006, p. 73). But inclusion can also be justified by the will to improve the legitimacy of the governance system. Participatory theory stresses the need for sustained citizen involvement in everyday political life, regardless of the specific mechanisms of participation. Everyday citizen participation is seen as increasing civic competences as well as objective in itself (Pateman, 2012). For deliberative democrats, inclusion is also central and input legitimacy is a measure for the openness of the deliberative events toward demands and needs from its participants (Barber, 1984; Fiorino, 1990; Pröpper and Steenbeek, 1999; Edelenbos, 2000; Lowndes, Pratchett and Stoker, 2001; Caluwaerts and Reuchamps, 2015). Democratic deliberation can only take place if all concerned actors can expose their point of view and exchange their arguments.

Second: *How to participate?* The second dimension deals with the kind of interaction that is being organized. Again, we can speak of a continuum. At one end of the spectrum, participants are invited to listen as spectator. At the other end, people can extensively deliberate or negotiate on a specific project of public action. Such a more intensive interaction approach is clearly inspired by the development of the deliberative theory of democracy (Manin, 1985; Elster, 1998; Chambers, 2003). For these theorists, democracy is not only a question of the number of people that participate but also of the quality of the process (Held, 2006). A political process is fair not only if all interested actors are invited but also if the process is organized on the basis of a fair deliberation among actors that exchangeq rational arguments in order to find a better solution. In contrast to the classical theory of aggregation at and bargaining after the ballot box, the aim is to base the legitimacy of the political process on the fact of giving defensible reasons. Such deliberation also needs to contribute to a transformative process. By opening up towards perspectives of other participants, people can learn from each other and develop a new, richer perspective (Fishkin, 1991). For the promoters of a more deliberative democracy, participatory devices should not only give ordinary people access to the policy making process, but should also offer a venue for meaningful interaction among diverse actors with the possibility to substantially change the participants' views and to create a common proposition or evaluation.

Third: *Why participate?* The last dimension is the question of the goal of the participatory mechanism. Are people invited to be informed by authorities or actively involved in the decision making process? We have already discussed in the second section the difference between information, consultation and participation. These different forms of public involvement lead to different public action goals. It has been argued that involving more diverse actors increases the possibility of developing more insight in different perspectives on the problem, finding common ground (for example in order to develop a shared problem definition), gaining knowledge about relevant elements of policy implementation, developing more innovative and/or integrative solutions. The stated purpose of most public hearings and many other public meetings is to provide such advice. But the more radical instigators of public participation posit that a consultative role is not sufficient. For them, citizens should have a direct power, such as in participatory budgets (Baiocchi, 2005), to exercise a real counter power to elected representatives.

From the above it is clear that public consultation can achieve different goals, depending on the perspective. Whereas the more instrumental or managerial perspective focuses on "what does

public consultation bring to policy?", the democratic perspective raises the questions of the inclusiveness and the deliberative quality of the public consultation. The central question is then: "what does public consultation bring to democracy?" The perspective on public consultation, and the specific goals that are aimed for, will inspire the set up and the design of the public consultation.

10.5. A diversity of experiences in Belgium

The framework that was developed in the previous section provides an interesting guide to look at different forms of public consultation and participation in Belgium. This diversity is twofold. On the one hand, there is a very large diversity of participation mechanisms. The aim of this chapter is not to present a comprehensive overview of every experience but rather to present several emblematic cases of participation along the three dimensions: who, how and why. On the other hand, there is a diversity related to the levels of government. Each level of government has developed tools of consultation and participation. Often tools and mechanisms have been adapted to fit specific perspectives and goals. It is not the aim of this chapter to present all of them, but to shed light on some of them in order to gain a better understanding of the dynamics of public consultation and participation and policy making in Belgium.

10.5.1 Information

The first possibility – and actually a requirement for public consultation and participation – is to allow citizens to have access to the documents produced by public authorities. Examples include access to public records, official gazettes, government websites, public notice of white papers and other policy documents. At the federal and regional level there are legal and policy frameworks that impose public information and consultation. First of all, there is legislation that defines citizens' rights of access to government information. During the 1990s at both federal and regional level Freedom of Information Acts were voted that provide the legal basis for passive access to information and active measures to disseminate information to citizens, stimulating transparency and openness. Laws that establish rights of access to information are a basic building block for enhancing government transparency and accountability (OECD, 2011). Belgium is, however, a relative laggard in establishing freedom of information legislation.

In Belgium specific policies have been developed to support active and passive access to information, and institutions are in place to implement and enforce access to information, such as ombudsmen at the federal and regional level.

10.5.2 Consultation

The second possibility is to allow citizens to give their thoughts on public policies. Different methods can be used to achieve this goal. Laws and regulations governing public consultation vary considerably among OECD member countries. As in other countries, in Belgium this kind

of legislation is more recent than freedom of information legislation. Consultation covers legislation on complaints and appeals procedures, on consultation during policy impact analysis, etc.

Comparatively, Belgium scores rather low at the level of public consultation management (OECD, 2009)[4]. This mostly refers to the level of formalization of public consultation in the policy making process. In Belgium there is no general administrative procedure law that provides for public hearings, notification periods, appeals procedures, etc. as in Finland or in Spain, for instance. Legislation stipulating public consultation is mostly policy specific. For example, in education policy there are requirements that educational stakeholders such as teachers, parents and students are consulted; in health policy that patients are consulted[5].

Next to legislation, there are also quite a few policy documents that support public consultation. Although Belgium as a neo-corporatist country has a culture of intensive societal consultation, institutional dialogue, and compromise, this consultation is also informal and selective. The same elite type stakeholders are often being consulted, and such consultations are sometimes being dealt behind closed doors (Delwit et al., 1999: 7-10). Therefore, more recent legislation as well as policy documents often stress transparency and inclusiveness in public consultation. In recent years, there have been quite a few innovations that aim to formalize broader and transparent public consultation in policy making, in line with OECD recommendations (for example RIA, Consultation Code, use of green and white papers, etc.).

For instance, the previous Flemish Government developed an important policy framework document called Pact 2020[6], committing itself to engage stakeholders more actively in policy development. Also in the coalition agreement 2009-2014[7] it was announced that the Flemish government would increase the dialogue with stakeholders and integrate this societal involvement in the entire policy cycle. In this document specific reference is also made to strengthening the involvement of the strategic policy advisory bodies which have been discussed in more detail elsewhere in this volume. Whereas these councils used to function as a neocorporatist interface between government and elite stakeholders, reform initiatives have been undertaken to broaden their membership so as to increase the inclusiveness and representativeness of these councils (Van Damme, Brans and Fobé, 2011). If we look at these councils using Fung's typology, we can say that they have closed membership and that they deliberate about policy issues among their members (although it is questionable that discussion is rational and power free as deliberative democrats would have it). The primary goal of such

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[4] In an OECD report Belgium scored 4.5 on the "consultation on rule-making index" which is a weighted average of yes/no answers to various questions on the existence of law consultation by citizens, of formal procedures enabling general public to impact regulation and governmental actions. The indicator is based on questions about the existence of formal procedures enabling general public, business and civil society organizations to impact regulation and governmental actions, and on whether citizens' views on such consultation procedures are made public. The US score 8.3 and the UK 11.5 (OECD Indicators of Regulatory Management report, 2009; OECD Better Life Index).

[5] The impact of the 1998 Aarhus convention was particularly important as it was a forerunner in stimulating federal and regional legislation regarding access to information, public consultation and justice in environmental matters.

[6] http://www.vlaandereninactie.be/over/pact-2020

[7] https://www.vlaanderen.be/nl/publicaties/detail/het-regeerakkoord-van-de-vlaamse-regering-2014-2019

councils is providing high quality policy advice but they also have an important role in pacification and bargaining among key stakeholders. The functionality of such councils regarding democracy is limited.

Whereas these advisory bodies are typically permanent consultative bodies with fixed membership, public consultation can also be organized in a more *ad hoc* manner. Important provisions for public consultation can be found in Environmental Impact Assessment (EIA)[8]. EIA laws at federal and regional level include requirements to ensure that information is provided and opportunities are given to the public to express their opinion. Laws on planning and building also offer rights of information and consultation.

A dominant mode of public consultation can be found as an integral part of the Regulatory Impact Analysis (RIA). RIA as a means of ex ante policy evaluation is supposed to contribute to the quality of legislation. In Belgium, developing high quality legislation and institutionalizing standards and systems that need to contribute to high quality legislation, is a relatively new policy goal. The federal Institute for sustainable development is in charge of it[9]. During recent years not only RIA was set up, but also a public agenda for new legislation, personnel specifically in charge of legislative quality (called "*cellen wetskwaliteit*" in Flanders), a consultation code, etc. In the 2009 'Inter-institutional agreement on the common approach of the Regulatory Impact Analysis (IIA-RIA)', it was stated that stakeholder consultation should be organized according to minimal EU quality norms. As one of the steps in the process of developing a RIA (which accompanies the legislation) there is an external consultation. Consultation is seen as a criterion of good regulation[10]. However, an important difference between consultation of the strategic advisory bodies and this RIA consultation is that the latter is (usually) not strongly legally entrenched. That is, the choice whether, whom and how to consult is often made by the administration that initiates new policy depending on their analysis of the relevance of consultation for the specific policy at hand.

Recently, a specific Consultation Code was developed that offers guidance to Flemish administrators in the public consultation process[11]. In the code several methods and techniques are mentioned, such as notice and comment procedures, hearings, opinion polls, deliberative polls, focus groups and expert panels. Specific attention is paid to e-consultation (by means of, amongst others, e-polls, chat, weblogs and online fora)[12]. In Wallonia, the "*Code la démocratie*

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[8] European directive 85/337/EG. In Wallonia, it led to the "*Arrêté du Gouvernement wallon organisant l'évaluation des incidences sur l'environnement dans la Région wallonne*" (*Moniteur Belge*. 21.09.2002), modified by the Government (*Moniteur Belge*. 23.02.2004). The so-called 'CWATUP' but also the situation in Flanders are further developed in the paragraphs.

9 http://ifdd.belgium.be/fr/content/l-eidd-devient-l-air

[10] The Flemish government decided on eight criteria of high quality regulation, one of which refers to good regulation as evidence-based and resulting from consultation and institutional dialogue at administrative, societal and political level (BVR 7-11-03).

[11] This also relatively late, for example when compared with the UK Code of Practice on Written Consultation, that dates from 2000.

[12] The consultation Code can be found at http://www.bestuurszaken.be/sites/bz.vlaanderen.be/files/Consultatiecode_LR.pdf.

locale et de la décentralisation" centralises several measures about public consultation for guiding administrators as well as citizens.

Next to the role of public consultation in enhancing the quality of regulation, the increased attention for public consultation is also driven by an organizational perspective. All Flemish administrative entities are expected to achieve a "maturity level 3" in stakeholder's management as part of their organizational development[13]. In order to achieve this level they have to consciously analyze their stakeholder's environment and take appropriate action towards these stakeholders. The different instances of public consultation discussed above are clearly set up rather from an instrumental, managerial and/or legal perspective rather than from a democratic perspective.

At the local level, consultations can be organized on all kinds of projects and policies. In the field of environment and planning and in line with European directives, several authorizations, permits and plans are submitted to public inquiries. In Wallonia for instance, the Walloon land planning, urbanisme and heritage code (regional law) (*Code wallon de l'aménagement du territoire de l'urbanisme et du patrimoine*, CWATUP) organizes these procedures. Generally, local authorities allow citizens to consult the documents related to the project and give their comments within a certain time. For the most important projects, public information meetings are also organized. All these mechanisms are purely consultative and reactive. There is no possibility for deliberation about the project. The major goal is to enable citizens to give their views and possibly be heard by authorities in charge of the project but not to engage people in the decision making process itself. In large-scale infrastructure projects a project logic dominates, and public consultation offers citizens a formal possibility to express their views and give comments. It is a minimal, formal guarantee to have a say. However, such consultation typically takes place late in the decision making process and has little impact on the decision.

Another typical example of consultation, although less legally formalized, deals with city strategic planning. In the "*projet de ville*" (city project) in Liège, the fifth largest city in Belgium, local authorities have sent to every household a questionnaire with a mix of open and closed questions (March to April 2012), which was also distributed in public spaces. It is thus a form of non-representative opinion poll. According to the final report, 5,741 citizens responded to this consultation: 2,593 by post and 3,156 via the municipality website (Liège, 2012). After a meeting with the stakeholders of the city, the municipality has analyzed the responses and determined the city priorities for the next ten years. This can be considered as a typical consultative and aggregative form of participation. The public is allowed to respond to a survey but the core of the realization of the project remains in the hands of elected representatives and their staff.

Generally speaking, we can see this kind of public consultation is quite often used. A consultation document is developed and published, with a call for comments. The media are used as a means to attract public attention to the consultation. Although this kind of consultation can potentially attract a large audience, in some cases it fails to attract sufficient reactions. Also

[13] https://www.bestuurszaken.be/leidraad-ic-ob

it often attracts reactions of a specific segment of the public that is therefore not representative. This form of public participation is defined by some scholars as "selective listening" (Sintomer et al., 2008). There is a possibility of participation but there is no real obligation for elected politicians to take this into account. In other words, the autonomy of the public is very limited as they are not involved in the policy-making process and they do not have the possibility to start an open debate on the subject.

This form of project-based and *ad hoc* organized public consultation is quite different from the more traditional permanent consultative bodies that are also at the local level in Belgium quite prominent. In these councils non-elected citizens that have expertise in a specific policy field (environment, mobility, etc.) regularly meet to discuss a specific project or policy issue and deliver a collective advice to policy makers. Whereas members need to be re-elected or re-appointed every 4 or 5 years, membership is typically quite stable over longer periods of time, which helps build up expertise and capacity. There is, however, sometimes a critique that such councils are not innovative enough and promote the status quo. The major difference with the more individual forms of consultation concerns the second dimension of our framework of analysis. Indeed, the idea is to bring in not only a series of individual opinions but also a collective advice from a delineated group of citizens, after a deliberation of more or less good quality.

The first dimension ('the who') may vary, of course. For instance, municipalities in the Walloon Region are invited to organize a consultative commission of town planning and mobility (*Commission Consultative Communale d'Aménagement du Territoire et de Mobilité*, C.C.A.T.M.)[14]. The C.C.A.T.M. is composed of 12 members for municipalities of less than 20,000 inhabitants and 16 members for municipalities over 20,000. Inhabitants are chosen by the city council on the basis of an application submitted after a public call in the local media and through posters. It also respects the age pyramid of the municipality. We can see that even though this mode of selection is open to every citizen, the bias of *self-selection* plus selection by the city council limits the inclusive potential of this consultative body. Other consultative bodies exist specifically dedicated to a segment of the population: youths, seniors, etc.

At other higher levels of governance (regional, community and federal), these permanent bodies are less open to so-called "ordinary" citizens but are institutionalized to welcome stakeholders (representatives) and experts. It is for instance the case for the Advisory Committee on Bioethics of Belgium that is composed of university professors, doctors, lawyers, magistrates and representatives of the different government of the country. The strategic advisory councils of the Flemish government are mainly populated by societal representatives, in some councils there are also some lay and/or academic experts (Fobé et al., 2013).

10.5.3 Consultation and direct democracy

One very specific form of public consultation is direct popular consultation ('plebiscite' or 'consultative referendum'); that is a referendum without binding power. The idea is to ask a

[14] Article 7 of the Code wallon de l'Aménagement du Territoire, de l'Urbanisme of 19 April 2007

question to the whole population on a specific subject. The principle of inclusiveness is focused upon. Even if such consultations are not legally binding, their impact may be important. However, the notion of this kind of consultation is criticized because it is not deliberative. People express their opinions on a question that they have not chosen and without having sufficient information and deliberation on the subject. Holding a binding referendum is not allowed in Belgium but the possibility of consultative referendum[15] is possible at different levels of government.

At the national level, the only instance of direct public consultation – that is consultative referendum – is known as the 'royal question', organized in 1950 about the return of Leopold III on the throne after his attitude during Second World War during which he kept – too close, for some – ties with Germany. This event has an important place in the collective memory because it has shown a great division between the north and the south of the country – even though there was also a strong intra-community division as well (Mabille, 2011). This quite negative experience of public consultation is therefore regularly mobilized by politicians but also by citizens to reject the use of this kind of public consultation at the federal level. In any case, such public consultation is not allowed at the federal level by the Constitution.

At the other levels of government, the possibility for consultative referenda exists. Since the sixth reform of state in 2012, regions can now organize these in their jurisdiction except for issues related to the budget (article 39bis of the Constitution). The organization of this procedure must be determined in every region by its parliament. At the local level but also provincial level, non-binding referenda are also possible. In the Walloon Region, the consultation is initiated by the municipal council or a group of citizens on a subject within the jurisdiction of the municipalities. The Walloon Parliament has established a special commission in 2015. It is called "democratic renewal" and it aims at fine tuning the use of petitions and popular consultation[16]. In Flanders such non-binding referenda are also possible, next to the right to petition and the right of initiative. However, research indicates that the use of these mechanisms remains limited. In 2012 in only 17% of the Flemish municipalities petitions had been submitted and in only 22% initiatives were launched (Hennau and Ackaert, 2014). This indicates that, in both Regions, even though innovative types of public consultation at the local level are nowadays legally entrenched, they are not being used very widely.

10.5.4 Participation and participatory budget

Throughout the world, the mechanism of participatory budget is often presented as a best practice in the field of public participation because the score is very high in every dimension of our framework of analysis. Generally speaking, a participatory budget is a procedure that allows non-elected citizens to participate in the design or distribution of public finances (Sintomer et al., 2008). By a complex mechanism of meetings in districts and semi delegation to citizens at the level of the whole city, citizens are invited to exercise the power directly by allocating a

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[15] Article 39 bis of the Belgian Constitution for the regional level and article 41 for the municipal level.
16 For further details, see '*Proposition de résolution portant création d'une commission spéciale relative au renouveau démocratique*', 130 (2014-2015) — N° 7.

part of the budget of the municipality. There is nevertheless a large diversity of procedures: some are designed by a radical perspective of reversal of the political priorities as in South America whereas others are inspired by a more managerial perspective as in the European context (Sintomer et al., 2008).

Some Belgian cities have also experimented with the implementation of such form of participation. In Mons, the mayor and president of the socialist party at the time, Elio Di Rupo, visited Porto Alegre, the birthplace of the participatory budget in Brazil (Damay, 2013) and brought back the idea to implement such participatory tool in his city. Two districts of the city developed a participatory budget. The procedures were institutionalized in 2002 and organized following a pyramidal design, where citizens of districts were elected by the population. According to Damay (2013), the device has experienced some difficulties regarding the lack of transparency and clarity about the source of fundraising, the difficult relationship with the public administration and the ambiguous role of the municipal council towards the final decision. There were important differences between the general purpose and the actual implementation of the project. Nevertheless, the project has been seen as an example, and in 2012 the Walloon government has inserted in the communal law the possibility for every municipality to organize a participatory budget, with a large autonomy concerning the practical organization and design of the devices.[17] In Flanders there are also some cautious experiments with the participatory budget. In Antwerp, for example, one of the district councils has set up a participatory budgeting process in 2014. About 10 % of the budget of the district (€ 1.1 million) was allocated by citizens over 12 policy themes. However, the district council still decides on the specific projects that will be developed with this budget.

10.5.5 Towards deliberative democracy?

While public consultation and participation has increased over the years, there is also a move towards more deliberative democracy. In Belgium the King Baudouin Foundation has played an important role in initiating and supporting deliberative debates on policy issues. One example is on newfound knowledge of the brain with the experience of 'meeting of minds' 2005 (King Baudouin Foundation and Rathenau Institute, 2004). In Flanders, the VIWTA (now part of the Flemish Parliament) as a para-parliamentary institute has experimented quite widely with deliberative citizen fora, such as the Citizen Consultation on Health and Mobility, gathering a representative sample of almost 300 citizens in 2008 to discuss in small groups the mobility of the future and health implications, during a one-day intensive deliberative event in the Flemish parliament in Brussels. These kind of initiatives have been called citizens' juries, citizens' panels, open fora, etc. The aim is to gather a group of citizens, generally selected by lot in the whole population, and organize deliberation among citizens and experts to propose at the end of the process an informed public opinion on a specific policy issue, sometimes accompanied by policy recommendations (Smith, 2012).

One recent experience called "the G1000" has particularly marked the public opinion in Belgium (Caluwaerts and Reuchamps, 2012). During the 2010-2011 political crisis, when it

[17] Article L1321-3 of the Code de la démocratie locale et de la décentralisation (Décret of the 26 April 2012).

took more than 500 days to install a new government, citizens' mistrust in government increased dramatically. In this context, a group of citizens sought to bring the citizens back in the political arena. Their reading of the crisis was that it was not only a Belgian crisis but also a crisis of the model of representative democracy. The G1000 aimed to be a citizen initiative that is capable of innovating democracy, a project which attempted not to overthrow the representative system, but to complement it and to breathe new life into it. Its aim is to gather ordinary citizens in a setting, which is conducive to open deliberation on possibly contentious political issues, and to let citizens themselves experience democracy and thus the difficulty of building bridges over highly polarizing issues. In order to live up to its ideals of inclusion and openness, the G1000 was more than a 1-day deliberative event. The G1000 was a process of public consultation and deliberation consisting of three distinct – but interrelated – phases, namely a broad public consultation, an intensive 1-day citizen summit with 1,000 citizens (for a large-scale deliberation), and a citizen panel (for an in-depth deliberation of the issues selected during the citizen summit).

This experiment is interesting regarding the three dimensions under study. Indeed, the G1000 tried to be very inclusive and to have a strong deliberative character. To this end, participants were selected by lot (Caluwaerts and Reuchamps, 2015). Random selection is a classical method used in different forms of democratic innovation as it gives to everyone an equal chance to be picked up for participation. In Ancient Greece, random selection was already seen as the most democratic way to select public authorities (Manin, 1997; Van Reybrouck, 2013). Today, this ideal relates to the statistical aim to gather a mini-public, which is miniature demos by random selection (Gastil, 2000; Fishkin, 2003; Sintomer, 2010). But the major criticism voiced towards the G1000 concerned its output; focusing on its lack of impact on actual politics and policies. Then again whereas the G1000 did not have an impact on the content of public policies, its impact on the public sphere has been progressively growing (Jacquet et al., 2016). Indeed, the experience was largely discussed in the media and put the question of democratic innovation on the political agenda. For the 2014 elections, a large majority of party manifestoes have stressed the need to develop forums to integrate citizens' participation at different stages of the policy process. The French-speaking green party (Ecolo), for example, exposed in their manifesto that the G1000 was an example and that such experience of deliberative democracy must be organized more regularly. Initiatives such as the G360 in Genk (Flanders) or the G100 in Grez-Doiceau (Wallonia) that are now taking place around the country have been inspired by the G1000.

10.6 Conclusion

In this chapter we have discussed the variety of public consultation and participation arrangements in Belgium at different levels of government. Belgium has been a relative laggard in establishing freedom of information legislation, and in formalizing public consultation processes. There is no general administrative procedure law that provides for public hearings, notification periods, appeals procedures, etc. as in Finland or in Spain, for instance. Legislation stipulating public consultation is mostly policy specific. In the field of environment and planning more formal public "notice and comment" consultation is legally entrenched.

In Belgium, as in other countries, we can observe the growth of diverse types of public inquiries and public consultation arrangements in policy-making. More traditional institutional arrangements (such as (semi)permanent societal advisory bodies in a country with a neocorporatist background) are being joined by public consultation initiatives inspired by democratic theory. Recently there have been developments aimed at formalizing public consultation in policy making (e.g. RIA, Consultation Code) in order to increase the quality of regulation and in line with OECD recommendations. There have also been experiments inspired by participatory and deliberative democracy, at different levels of government (G360, participatory budget, etc.). The recent G1000 initiative has been quite important for these developments.

However, whereas legislation allows for novel means of public consultation (for example, plebiscite, right to petition) the actual use of these mechanisms still remains limited. It appears that the current state of affairs in Belgium regarding public consultation and participation is still firmly embedded in an indirect democratic perspective, and that experiments with broader and more deliberative citizen participation are adapted to fit and not to challenge this perspective.

It we look at the goals that guide public consultation practice in Belgium, it appears that a legal and instrumental perspective dominates. Consultation is set up because it is required by law or because it is alleged that it may contribute to better supported policies, as mentioned in the introduction. Democratizing policies (that is using consultation or participation to inject more democracy into policy-making or even policy analysis?) is clearly a secondary goal. Nevertheless, in recent years such a democratic perspective appears to be on the rise.

In the coming years there is a need to systematically evaluate both more traditional and more innovative types of public consultation. What do they contribute to policies and to policy analysis? What do they contribute to democracy? How do they contribute to citizens' attitudes toward the public decision-making process? In a next stage, discussion could move towards a more optimal organization of different types of consultation, so that the different perspectives on and expectations of consultation can be combined.

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